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Attorneys for Plaintiff,
OWEN DIAZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

OWEN DIAZ,
Plaintiff,
v.
TESLA, INC. dba TESLA MOTORS, INC.;
Defendant.

Case No. 3:17-cv-06748-WHO

**DECLARATION OF MARIA A.
BOURN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES**

Trial Date: March 27, 2023
Complaint filed: October 16, 2017

1 I, Maria A. Bourn, declare as follows:

2 1. I am an attorney at law licensed to practice before all courts in the State of
3 California and a managing attorney at Law Office of Gomeran Bourn & Associates. I have
4 personal knowledge of all facts stated herein, and if called on to testify thereto, under oath, I could
5 and would competently do so.
6

7 2. In 2005 I graduated *magna cum laude* from Oregon State University with a
8 bachelor's degree in science. I attended Oregon State University on a full academic scholarship.
9 My grade point average ranked me in the top 1% of my graduating class, placing me on the
10 President's List. While at Oregon State University, I was inducted into the Phi Kappa Phi honor
11 society and received an Outstanding Graduate of the Year award. I then attended John F. Kennedy
12 University School of Law ("JFKU"). I graduated third in my class and my grade point average
13 ranked me in the top 10%. While at JFKU I was awarded a Public Interest Law Certificate
14 resulting from my extensive volunteer work in and out of court.

15 3. I became licensed by the California State Bar in 2010 and have been practicing
16 employment law and personally injury law exclusively for Plaintiffs. Prior to becoming licensed
17 to practice law, I dedicated over 1200 hours volunteering with New College of California Housing
18 Clinic, John F. Kennedy Housing Clinic, John F. Kennedy Criminal Defender Clinic, Hells
19 Canyon Preservation Council, Center for Biological Diversity, and the San Francisco Public
20 Defender's Office. I was a certified legal intern and actively litigated cases under the supervision
21 of a licensed attorney from 2007 through 2009. As a certified legal intern, I was the lead
22 representative on one jury trial, one bench trial, and assisted on other trials as second chair.
23

24 4. In 2014, I was a trial attorney in the matter of *Jhoanna Alberto v. Bridgeport*
25 *Transportation* (Case No.: RG-13697998), a Fair Employment and Housing (FEHA) action. Ms.
26 Alberto prevailed at trial, and the Honorable John M. True, III, granted Plaintiff's Motion for
27 Attorneys' Fees. We were successfully able to win the jury trial and received a punitive damages
28 award. Honorable Judge True found my reasonable hourly rate at that time to be \$395—the exact

1 rate I requested pursuant to our Fee Motion. The judge approved my rate at a much higher rate
2 than the attorney we took the case over from whom had been practicing for over twenty years.

3 5. In 2016, I was a trial attorney in the matter of *Laura Escobar v. Jenny Craig*
4 *Operations, Inc.* which was also a FEHA action. Ms. Escobar prevailed at arbitration, and
5 Honorable Steven Denton, granted Plaintiff's Motion for Attorneys' Fees. Honorable Denton
6 found my reasonable hourly rate at that time to be \$395 based on the fact the primary issues were
7 litigated in 2014-2015.

8 6. In 2016, I was the lead attorney and appellate attorney in the matter or *Moore v.*
9 *Regents* (2016) 248 Cal.App.4th 216, which resulted in a published opinion overturning a
10 summary judgment motion and clarifying the disability discrimination law as it related to
11 perceived disabilities. The decision is the main decision used in jury instructions today in several
12 matters and is found throughout the instructional guides relating to several matters.

13 7. In 2017, in the matter of *Bower v. Daniel J. Cooper* (Case No.: 34-2015-00184671)
14 Sacramento Superior Court the court approved my hourly rate at \$375, based on lower attorney
15 hourly rates in Sacramento County.

16 8. On June 17, 2020, in the matter of *Woodman-Pena v. Mary L. Gardella 1991 Trust*
17 (Case No.: 18-cv-02187), a wage theft case in Santa Cruz Superior Court, my hourly rate was
18 approved at \$595. The Court also approved: my partner, Tanya Gomerman, a 2010 graduate at
19 \$595 an hour. The court also approved a 1.35 multiplier based upon the contingent nature of the
20 case.

21 9. On April 22, 2022, in the matter of *Cordova v. Happy Boys Farms* (Case No.:
22 21CV01498), a wage theft case in Santa Cruz Superior court, my hourly rate was approved at
23 \$650 per hour.

24 10. I am a member of the California Employment Lawyers Association ("CELA") and
25 was a co-chair of CELA's Public Employees Committee. I am also a member of the San
26 Francisco, Palo Alto Bar Association, San Mateo Bar Association, and Aids Legal Referral Panel.
27
28

1 Currently, I was a co-chair of San Francisco Barristers Labor Employment section and San Mateo
2 Bar Association Labor Employment Law section. As a co-chair I planned and organized
3 continuing education curriculum for attorneys throughout the Bay Area. Further, I was also a
4 Board Member of the Golden Gate Region Center. I volunteer with these organizations regarding
5 employment-related issues. I have been recognized with several different awards for my volunteer
6 work.
7

8 11. I have spoken numerous times on trial related matters and published articles about
9 employment law topics in professional journals, and at conferences. In 2015, I spoke about trial
10 representation at the California Employment Lawyers Association Conference in Oakland. In
11 2016, I spoke for the San Mateo Bar Association on a panel discussing privacy issues during
12 employment litigation. Also in 2016, I spoke at the San Francisco Bar Association discussing
13 issues relating to Arbitration. Throughout the global pandemic I spoke on many issues, including
14 speaking on CBSN regarding new rules and regulations for employers. Recently, I spoke on the
15 Alameda County Bar Association on a panel with other trial attorneys regarding litigating cases
16 post COVID. In October 2022, I was the opening speaker for the California Employment Lawyers
17 conference in San Diego and spoke about trial skills as it relates to selecting and addressing
18 experts.
19

20 12. From 2016 to 2019 I was named a “Northern California Rising Star” by Super
21 Lawyers, a rating service of outstanding lawyers from more than 70 practice areas who have
22 attained a high degree of peer recognition and professional achievement. This distinction is based
23 on a peer review process and is awarded to only the top 2.5% of attorneys under age 40 or in
24 practice for less than 10 years. From 2020 to 2022 I was named “Super Lawyer” from the same
25 organization.
26

27 13. I was also selected for a Lawyer Monthly Magazine-Women in Law 2016 Award, in
28 recognition for outstanding legal expertise and contribution within the practice area of Labor

1 and Employment. Lawyer Monthly Magazine highlights the achievements of women in the legal
2 profession across the globe.

3 14. Throughout COVID, I have been the lead attorney on three trials. In 2020, I won
4 a judgment in a case for claim of quantum meruit in San Francisco Superior Court before Judge
5 John Stewart. In 2021, I got a \$1.28 million verdict in Tulare County on behalf of a janitor for
6 the public school district. In 2022, I was the lead attorney in case in Tulare County representing
7 a farm working against an agriculture company. After the trial started the case settled for
8 substantially more than ever offered before the trial started.
9

10 15. In 2022, I worked on a trial wherein we received a \$3,070,000 verdict. Defendant
11 sent a 998 in that case for \$635,000. Post-trial, the case settled for \$3,500,000.

12 16. I have been asked to express my opinion as to the current hourly rates the Collier
13 Law Firm, LLP, is seeking for the matter of *Diaz v. Tesla, Inc.*. I have known Mr. Collier for
14 many years. I believe Mr. Collier to be an excellent attorney with a tremendous amount of
15 experience in the field of employment law.

16 17. I know Mr. Collier and his trial team are asking for the following rates:

- 17 ➤ Dustin Collier, licensed in CA in 2009 and whose practice is based out of the SF
18 Bay Area: \$750
- 19 ➤ Joshua Socks, licensed in MN in 2013 and in CA in 2015, practice in SF Bay
20 Area: \$700
- 21 ➤ Elizabeth Malay, licensed in MN in 2013 and in CA in 2021, practice in SF Bay
22 Area: \$400
- 23 ➤ Drew Teti, licensed in CA in 2009, practice in SF Bay Area: \$550.

24 18. I am familiar with the rates charged by attorneys of comparable skill, expertise, and
25 experience throughout the Bay Area. I have worked with dozens of Bay Area attorneys and I am
26 an active member of CELA familiar with the rates charged by other employment lawyers.
27

28 19. The rates requested by Plaintiff's counsel in this motion are comparable with the rates

1 of other attorneys in the Bay Area litigating employment cases. This includes Messrs. Collier and
2 Socks' requested rates of \$750/hour and \$700/hour, respectively. It also includes Mr. Teti's
3 requested rate of \$550/hour, and Elizabeth Malay's requested rate of \$400/hour. If one considers
4 their experience levels and the incredible result this team of attorneys had in this case, and other
5 cases, it is my opinion that the rates requested by Mr. Collier's firm are reasonable for those with
6 similar experience, knowledge, and skills. In fact, these attorneys were recently awarded
7 substantially similar rates in the case of *Ruvalcaba v. Santa Cruz City Schools et al.* (Santa Cruz
8 Superior Court Case No. 19CV00488). In that case, Collier, Socks, Teti, and Malay were awarded
9 rates of \$700, \$650, \$500, and \$350 respectively. These rates were justified then and are even
10 more justified now.

12 20. Contingent-fee cases, especially for low-wage earners, are a high-risk business model.
13 Often these cases require even more hours, effort, and skill because defendants do not
14 appropriately value the human harms and losses that are suffered by an individual with low
15 economic losses. I.e., they diminish the damages and view the case in a different lens than if the
16 plaintiff were, for example, a C-suite executive.

17 21. Fee awards—and most importantly multipliers—are essential to encourage lawyers to
18 prosecute meritorious cases even when the plaintiff is not a high earner who may not have the
19 economic damage loss that someone in a higher-ranking position would be presumptively entitled
20 to. Without a fee award, many attorneys would not be able to take these righteous cases and shine
21 a light on a defendant's misconduct. California employees would then suffer greatly because their
22 right to be free of workplace discrimination would be in jeopardy. I know from discussions with
23 other plaintiff's employment lawyers that attorneys would be extremely reluctant to take on risky
24 contingent fee cases unless we are fairly rewarded for prevailing when we do, given that so many
25 of these cases result in no recovery at all. Thankfully, the public policy of the State of California
26 is such that fee awards exist to ensure that there is better access to justice, no matter one's income
27 level.
28

I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.


Maria A. Bourn